



UNITED STATES PATENT AND TRADEMARK OFFICE

5/18

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,518	09/15/2003	Roger G. Ignon	6056-DIV	1886

7590 05/25/2005

Myers Dawes Andras & Sherman LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

EXAMINER

VRETTAKOS, PETER J

ART UNIT PAPER NUMBER

3739

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,518

Applicant(s)

IGNON, ROGER G.

Examiner

Peter J Vrettakos

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-18-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The instant application is a Divisional of 09/699,220, which is now USPN 6,629,983.

Claims 1-7 were cancelled in the preliminary amendment dated 9-15-03. Claims 8-18 are pending. Claims 8 and 18 are sole independent claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-11 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the housing" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bays et al. (6,423,078).

Independent claims 8 and 18

Claim 8. Bays et al. discloses a method for abrading skin of a patient, comprising the steps of: providing a hand piece (14 and 16, figure 1) with a hole (adjacent to 26 in figure 3); moving a portion of the skin through the hole and into the handpiece; and abrading (40) the skin portion moved through the hole of the handpiece (col. 3:57-61). Also see patented claim 23.

Claim 18. Bays discloses a method for operating a skin abrader, including the steps of: providing a housing (14) with a base (18) and a cap (16) separable (shown separated in figure 2) to provide access to an abrasion element (40 – at the end of 18) within the housing (14, see figure 1); providing a series of abrasion elements each having different abrasion characteristics (varying ablation tips disclosed col. 7:57-67); selecting from this series a particular one of the abrasion elements having the abrasion characteristics desired (inherent); removing (element 24) the cap from the base; mounting the particular abrasion element in one of the caps and the base (this configuration is shown in figure 5); and replacing the cap (16) on the base (18) with the particular abrasion element disposed in the housing (the replacing step is essential for patented claim 23 because the cap represents the “shield” in the claim).

Art Unit: 3739

Dependent claims 9-17

Claim 9. The method of abrading skin recited in Claim 8, further comprising the step of : providing an abrasive surface (48) in proximity to the hole (adjacent to 26 in figure 3) in the housing (22) and moving the skin relative to the abrasive surface (48) to abrade the skin portion. (See patented claim 23).

Claim 10. The method recited in Claim 9, wherein the moving step includes the steps of: moving the abrasive surface (48) relative to the skin to abrade the skin portion extending through the hole (adjacent to 26 in figure 3).

Claim 11. The method recited in Claim 10 wherein the step of moving the abrasive surface (48) relative to the skin includes a step of moving the housing (22) relative to the skin (col. 12:4-5).

Claim 12. The method recited in Claim 8 where the abrading step includes the steps of: providing an abrader (40) in the housing (20, the abrader rests in the housing as depicted in figure 5); moving the handpiece (14 and 16) over the skin to draw successive portions of the skin (col. 12:6-11) through the hole (adjacent to 26 in figure 3) and into abrasive contact with the abrader (40).

Art Unit: 3739

Claim 13. The method recited in Claim 10 wherein the step of moving the abrasive surface (48) includes the step of moving ("rotating" "alongside a shield", patented claim 23 – "shield" is analogous to housing) the abrasive surface relative to the housing.

Claim 14. The method recited in Claim 13 wherein the step of moving the abrasive surface relative to the housing includes the step of rotating the abrasive surface relative to the housing. See patented claims 23 and 26.

Claim 15. The method recited in Claim 13 wherein the step of moving the abrasive surface relative to the housing includes the step of oscillating ("rotating an abrading member" – see patented claim 23) the abrasive surface relative to the housing.

Claim 16. The method recited in Claim 8 wherein the moving step includes the step of drawing the skin portion into the hole (col. 3:57-60). See col. 12:6-11.

Claim 17. The method recited in Claim 16 wherein the drawing step includes the step of sucking the skin portion into the hole (col. 3:57-60). See col. 12:6-11.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaddock et al. (6,299,620).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos
May 20, 2005

8V


ROY D. GIBSON
PRIMARY EXAMINER